

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
LAKE CHARLES DIVISION

UNITED STATES OF AMERICA * Docket No. 6:16-CR-00037
 *
 *
VERSUS * February 25, 2016
 *
 *
JESSE HAYES * Lake Charles, Louisiana

REPORTER'S OFFICIAL TRANSCRIPT OF THE PLEA HEARING
BEFORE THE HONORABLE PATRICIA MINALDI,
UNITED STATES DISTRICT JUDGE

A P P E A R A N C E S

FOR THE GOVERNMENT: ALEXANDER C. VAN HOOK
U.S. Attorney's Office
300 Fannin Street, Suite 3201
Shreveport, LA 71101
Email: alexander.van.hook@usdoj.gov
Phone: (318) 676-3600
Fax: (318) 676-3660

TONA BOYD
U.S. Dept. of Justice, Civil Rights Div.
950 Pennsylvania Avenue N.W.
Washington, DC 20530
Email: tona.boyd@usdoj.gov
Phone: (202) 514-3204
Fax: (202) 514-8336

FOR THE DEFENDANT: LESTER J. GAUTHIER, JR.
Attorney at Law
P.O. Box 3371
Lafayette, Louisiana 70502
Email: legauth@bellsouth.net
Phone: (337) 264-1783
Fax: (337) 264-1869

**Deidre D. Juranka, RPR
United States Court Reporter
Western District of Louisiana**

REPORTED BY: DEIDRE D. JURANKA, RPR
611 Broad Street, Suite 267
Lake Charles, Louisiana 70601
Email: dd_juranka@lawd.uscourts.gov
Phone: (337) 214-6669
Fax: (337) 437-3390

**Deidre D. Juranka, RPR
United States Court Reporter
Western District of Louisiana**

COURT PROCEEDINGS

(Call to order of the court.)

THE COURT: Afternoon. You may be seated. Mr. Van Hook.

MR. VAN HOOK: Good afternoon, Your Honor. Your Honor, the next case this afternoon is United States versus Jesse Hayes which is a Lafayette division case that's been assigned Criminal No. 6:16-0037. I'm Alex Van Hook on behalf of the United States. Before court started this afternoon, I offered to the clerk an original Rule 11 package which contains a Waiver of Indictment, Bill of Information, Elements of the Offense, Affidavit of Understanding of Maximum Penalty and Constitutional Rights, the Plea Agreement, and a Factual Basis in Support of the Plea.

THE COURT: Okay. Accepted. All right. Mr. Gautier.

MR. GAUTHIER: I am Lester Gautier. I do represent this defendant, Jesse Hayes, Your Honor.

THE COURT: Have you gone over the plea packet with him, Mr. Gautier?

MR. GAUTHIER: Yes, ma'am, we have.

THE COURT: Do you feel like he understands it?

MR. GAUTHIER: I do, Your Honor; but I want to address the Court --

1 THE COURT: Okay.

2 MR. GAUTHIER: -- to ask the Court to take
3 extraordinary -- to undergo extraordinary questioning as
4 to the effectiveness of defense counsel for this reason.
5 This guilty plea, for the first time in my career, was
6 scheduled before I ever met my client. I met my client
7 yesterday afternoon for the first time. We've worked
8 diligently, and I feel that he does understand the
9 contents of the Plea Agreement. And we've discussed
10 multiple things and the benefits, et cetera and so on.
11 So I represent to the Court that I've done the very best
12 I could under short time. However, I want to bring that
13 to the Court's attention and ask the Court to please
14 address defendant as to -- more thoroughly, I guess,
15 than normal as to the effectiveness of defense counsel.
16 I feel I have been effective under the time constraints.
17 However, I would have liked to have been involved in the
18 process a little sooner myself.

19 THE COURT: Why don't we just continue this so you
20 feel more comfortable.

21 MR. GAUTHIER: No, Judge. I don't think that's
22 necessary. I think Mr. Hayes -- I've talked with him
23 extensively and he feels confident that he knows and
24 understands what's going on. I will state to the Court
25 that he had debriefed and intended to enter a guilty

1 plea before my involvement. So his intent has been
2 there all along.

3 I'm not suggesting that we're not ready. That's
4 not what I'm suggesting. I'm just -- as a factual
5 matter, I just want to place that on the record not as a
6 hook to say I'm ineffective or to have somebody vitiate
7 the plea. I want it to be a valid plea, but I want that
8 to be known because I think the Court needs to know that
9 in making its inquiry. That's all.

10 THE COURT: Okay. Thank you.

11 MR. GAUTHIER: Thank you.

12 THE COURT: Have you talked with him about the
13 impact the sentencing guidelines may have on his
14 sentence?

15 MR. GAUTHIER: I have, Judge.

16 THE COURT: And you feel like he understands that?

17 MR. GAUTHIER: I do, Judge.

18 THE COURT: Thank you. Mr. Hayes, please raise
19 your right hand.

20 (Oath is administered.)

21 THE COURT: Mr. Hayes, I'm told you want to plead
22 guilty this afternoon to deprivation of rights under
23 color of law. Before I can accept your guilty plea, I
24 need to have a discussion with you about the
25 consequences of a guilty plea and the rights that you

1 give up when you enter a guilty plea. During that
2 discussion I'll be asking you some questions, and it's
3 important that the answers to those questions be
4 truthful. For one reason, you're now under oath and, if
5 you gave untruthful answers, the Government would have
6 the option of charging you with perjury. Do you
7 understand that?

8 THE DEFENDANT: Yes, Your Honor.

9 THE COURT: Give me your full name for the record,
10 please.

11 THE DEFENDANT: Jesse James Hayes.

12 THE COURT: And how old are you?

13 THE DEFENDANT: 36 years old.

14 THE COURT: How far did you go in school?

15 THE DEFENDANT: I have two years of college.

16 THE COURT: I can assume from that that you can
17 read and write the English language?

18 THE DEFENDANT: Yes, Your Honor.

19 THE COURT: Are you currently under the influence
20 of drugs or alcohol?

21 THE DEFENDANT: No, Your Honor.

22 THE COURT: You have been charged in this case by
23 Bill of Information which is a document that is filed by
24 the U.S. Attorney or an assistant U.S. attorney alone.
25 You have the right to have a grand jury hear this case

1 and that would be a certain number of citizens who would
2 listen to the evidence that the Government presents and
3 sometimes listens to evidence if the defendant wants to
4 present any and then they determine whether there's
5 enough evidence to hold you over for trial. But in this
6 case, I'm told and you have executed a Waiver of
7 Indictment which means -- that would be the charging
8 instrument that the grand jury would issue, but I'm told
9 that you want to waive your right to that grand jury and
10 the right to that Indictment and plead to the Bill of
11 Information. Is that correct?

12 THE DEFENDANT: Yes, Your Honor.

13 THE COURT: Let's turn to the Elements of the
14 Offense. This document tells you the things that the
15 Government would have to prove beyond a reasonable doubt
16 before you could be convicted of this offense and those
17 things are, number one, that you acted under color of
18 law; two, that you deprived a person whose initials are
19 E.M., who is a person in the United States, of a right
20 protected or secured by the Constitution or laws of the
21 United States, here the right to due process of law
22 which includes the right to be free from the use of
23 excessive force amounting to punishment by a sheriff's
24 deputy; three, that you acted willfully; and four, that
25 the offense resulted in bodily injury to the victim or

1 involved the use of a dangerous weapon. Do you
2 understand what the Government would have to prove?

3 THE DEFENDANT: Yes, Your Honor.

4 THE COURT: Turn next, please, to the Affidavit of
5 Understanding of Maximum Penalty and Constitutional
6 Rights. This document tells you the penalty you face if
7 convicted of this offense and goes on to describe for
8 you the rights that you give up when you enter a guilty
9 plea. Let's talk first about the penalty.

10 When convicted of this offense you face a term of
11 imprisonment of not more than ten years, a fine of not
12 more than \$250,000, a term of supervised release of not
13 more than three years, and there is also a special
14 assessment of \$100 which is mandatory. Do you
15 understand the penalty that you face?

16 THE DEFENDANT: Yes, Your Honor.

17 THE COURT: That penalty contains a term of
18 supervised release which means, if you are incarcerated
19 on this offense, when you are released your release will
20 be supervised by a probation officer to whom you will
21 have to report on a regular basis. There will be
22 conditions placed on that release, things that you must
23 do and things that you cannot do. I tell you this
24 because it's important that you abide by the terms of
25 your supervised release because, if you don't, you can

1 be brought back to court, your release could be revoked
2 and, if that happens, you would -- the possibility
3 exists that you would end up serving more than the
4 maximum penalty for this offense. Do you understand
5 that?

6 THE DEFENDANT: Yes, Your Honor.

7 THE COURT: I want to let you know that you have
8 the right to go to trial in this matter. Are you
9 appointed, Mr. Gautier, or retained?

10 MR. GAUTHIER: I'm appointed, Your Honor.

11 THE COURT: Mr. Gautier is here with you now and,
12 if you wanted to go to trial, he would represent you
13 during trial. We'd select a jury of 12 people to hear
14 your case, and all 12 of those jurors would have to
15 agree that the Government had proven its case beyond a
16 reasonable doubt before you could be convicted of any
17 offense. But when you plead guilty you give up the
18 right to trial, to be represented during that trial, to
19 that 12 person jury and that unanimous verdict. Do you
20 understand that?

21 THE DEFENDANT: Yes, Your Honor.

22 THE COURT: If you went to trial, you'd have the
23 right to see the witnesses called against you and ask
24 them questions; but when you plead guilty you give up
25 that right as well. Do you understand that?

1 THE DEFENDANT: Yes, Your Honor.

2 THE COURT: You have a privilege against
3 self-incrimination which means no one can force you to
4 testify against yourself, but when you plead guilty you
5 are testifying against yourself so you're giving up that
6 privilege. Do you understand that?

7 THE DEFENDANT: Yes, Your Honor.

8 THE COURT: If you went to trial you'd have the
9 right to take the witness stand in your own defense. No
10 one could make you do that, but you give up that right
11 as well when you plead guilty. Do you understand that?

12 THE DEFENDANT: Yes, Your Honor.

13 THE COURT: After this guilty plea a probation
14 officer is going to do an investigation into your
15 background and the particular circumstances of this
16 offense. Once that investigation is complete, the facts
17 learned in the investigation will be applied to the
18 sentencing guidelines. When that happens it will yield
19 a range of sentence that Congress says is appropriate
20 for you under these circumstances. I must consider that
21 range, but if I think it's inappropriate I can give you
22 something less or something more as long as I stay
23 within the bounds of the law and have a good reason for
24 not accepting the guideline range. Do you understand
25 that?

1 THE DEFENDANT: Yes, Your Honor.

2 THE COURT: If you were unhappy with that sentence,
3 you would have the right to appeal the sentence but you
4 wouldn't be allowed to withdraw your guilty plea. Do
5 you understand that?

6 THE DEFENDANT: Yes, Your Honor.

7 THE COURT: Let's turn to the Plea Agreement. The
8 Plea Agreement outlines in detail and in writing the
9 obligations that you have to the Government because of
10 this plea and the obligations the Government has to you
11 because of this plea. Is there anything about those
12 obligations you don't understand or have any questions
13 about?

14 THE DEFENDANT: No, Your Honor. I understand it.

15 THE COURT: Has anyone promised you anything that's
16 not contained in the Plea Agreement?

17 THE DEFENDANT: No, Your Honor.

18 THE COURT: Anyone force, threaten or coerce you to
19 enter into this agreement?

20 THE DEFENDANT: No, Your Honor.

21 THE COURT: If you went to trial and you were
22 convicted, you'd have the right to appeal the verdict of
23 guilt; but when you plead guilty you're admitting your
24 guilt so you give up your right to appeal the verdict of
25 guilt. Do you understand that?

1 THE DEFENDANT: Yes, Your Honor.

2 THE COURT: You have the right to be represented at
3 all times by counsel of your choice or court-appointed
4 counsel if you cannot afford your own. As I said
5 before, Mr. Gautier is here with you now. If you went
6 to trial, he'd represent you during trial. And if you
7 decided to appeal, someone would represent you on
8 appeal. But when you plead guilty you give up your
9 right to trial and to appeal the verdict of guilt so you
10 also give up your right to be represented during those
11 proceedings. Do you understand that?

12 THE DEFENDANT: Yes, Your Honor.

13 THE COURT: Let's turn to the Factual Stipulation.
14 I'm not going to read this word for word, but I am going
15 to go over what you -- what I think are the more
16 important points. And this document is what I'm told
17 you and the Government agree happened in this case that
18 would justify me in accepting your guilty plea. It
19 tells me that while you were under color of law and
20 aided and abetted by others you willfully deprived
21 someone whose initials are E.M., who was a pretrial
22 detainee, of his federally protected right not to be
23 deprived of liberty without due process of law in
24 violation of federal law.

25 It tells me that you were employed by Iberia Parish

1 Sheriff's Office and you served as assistant warden from
2 2010 to 2013. It goes on to tell me that on September
3 21st of 2011 that inmate assaulted an officer at the
4 Iberville Parish Jail --

5 MR. GAUTHIER: It would be Iberia, Judge.

6 THE COURT: I'm sorry?

7 MR. GAUTHIER: You said Iberville. It's Iberia.

8 THE COURT: Thank you for correcting me. You and
9 other supervisors then retaliated against E.M. by taking
10 him to the chapel where there were no cameras and
11 assaulted him while he was handcuffed and compliant.
12 And it goes on to tell me that you also watched as an
13 Iberia Parish Sheriff's Office supervisor placed a baton
14 between E.M.'s legs and in a sharp motion raised the
15 baton to strike E.M.'s testicles lifting E.M. off the
16 floor. While he was on the floor writhing in pain, that
17 same officer struck E.M. multiple times with the baton.
18 You and others then struck E.M. in the face. You and
19 others used this unlawful unjustified force on E.M. to
20 punish him for his prior assault on an officer. At no
21 time did you intervene to prevent any aspect of the
22 officers' assault on E.M. in the chapel despite having
23 the opportunity to do so and knowing you had a duty to
24 do so.

25 Is that what happened?

1 THE DEFENDANT: Yes, Your Honor.

2 THE COURT: Are you satisfied with the
3 representation that Mr. Gautier has provided to you?

4 THE DEFENDANT: Yes, Your Honor, I am.

5 THE COURT: And I just want to make sure. He has
6 expressed some concern about the rapidity with which
7 your plea came about after his appointment. Do you have
8 any discomfort about that or anything you want to share
9 with me about that?

10 THE DEFENDANT: No, Your Honor, I do not.

11 THE COURT: To the charge of deprivation of rights
12 under color of law, how do you plead?

13 THE DEFENDANT: I plead guilty, Your Honor.

14 THE COURT: Thank you. I'll accept the guilty plea
15 and will set sentencing for May 24th, 2016, at
16 11:15 a.m., and that will be in Lafayette. Does
17 Mr. Hayes have a bond?

18 MR. VAN HOOK: No, Your Honor. The Government's
19 not moving for pretrial detention or for bond. We just
20 ask that he not possess a firearm.

21 THE COURT: Do you understand that, Mr. Hayes?

22 THE DEFENDANT: Yes, Your Honor.

23 THE COURT: That would be a totally separate crime
24 at this point.

25 THE DEFENDANT: Yes.

1 THE COURT: Okay. Then we're adjourned.

2 MR. GAUTHIER: Well, Judge, I should have discussed
3 it with the Government ahead of time. There are a
4 couple things. His employment is in Cameron Parish on
5 the beach. However, he does go offshore, which may be
6 in -- outside the territorial waters, for his job on
7 offshore platforms. Is there any problem with that at
8 all from the Government's perspective?

9 MR. VAN HOOK: No, Your Honor. We move for no
10 conditions other than the one that I've mentioned.

11 MR. GAUTHIER: Here's another issue we do want to
12 bring to the Government's attention and to the Court.
13 Mr. Hayes is scheduled to get married. He's planning
14 on --

15 THE COURT: I'm going to stop you right there,
16 Mr. Gautier, because I need to take a recess.

17 MR. GAUTHIER: No problem.

18 (Recess is taken.)

19 THE COURT: Okay.

20 MR. GAUTHIER: I'm sorry. We're bringing to the
21 Government's attention, the Court's attention that
22 Mr. Hayes plans on being married. He also plans on
23 going on a cruise. The cruise leaves Galveston and goes
24 to various -- Cozumel and other places which are
25 actually outside of the United States. I've discussed

1 the matter with the Government. They have no objection.
2 They're not requesting any restrictions be placed on his
3 travel. He leaves Galveston. He will be with his wife.
4 He comes back into Galveston.

5 THE COURT: When is the wedding?

6 THE DEFENDANT: The wedding, Your Honor, is going
7 to be March 12th. And the cruise just is going to be
8 April 3rd, a little bit after the wedding.

9 THE COURT: Okay. If the Government doesn't have a
10 problem, I don't have one.

11 MR. VAN HOOK: No, Your Honor. He said he'll come
12 back.

13 THE COURT: He'd better.

14 MR. GAUTHIER: He did make that declaration, Judge.
15 He said he would come back.

16 MR. VAN HOOK: We'll find him if he doesn't.

17 THE COURT: I'm sure you will.

18 MR. GAUTHIER: Thank you.

19 THE COURT: All right. Thank you. We're
20 adjourned.

21 (Proceedings adjourned.)

22

23

24

* * * * *

25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

CERTIFICATE

I hereby certify this 2nd day of March, 2016, that the foregoing is, to the best of my ability and understanding, a true and correct transcript of the proceedings in the above-entitled matter.

S/Deidre D. Juranka, RPR
Official Court Reporter

Deidre D. Juranka, RPR
United States Court Reporter
Western District of Louisiana